

# **EXHIBIT 17**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 -----X  
5 MARK I. SOKOLOW, et al.,  
6  
7 PLAINTIFFS,  
8  
9 -against- Case No:  
10 04CV 397 (GBD) (RLE)  
11  
12 THE PALESTINE LIBERATION ORGANIZATION, et  
13 al.,  
14  
15 DEFENDANTS.  
16 -----X

17  
18 DATE: June 27, 2012  
19 TIME: 2:17 P.M.  
20  
21  
22  
23  
24  
25

16 DEPOSITION of VARDA GUETTA,  
17 taken by the Defendants, pursuant to Notice  
18 and to the Federal Rules of Civil  
19 Procedure, held at the offices of Morrison  
20 & Foerster, 1290 Avenue of the Americas,  
21 New York, New York 10104, before Robert X.  
22 Shaw, CSR, a Notary Public of the State of  
23 New York.  
24  
25

1 Varda Guetta

2 Q. How long have you lived at your  
3 current address?

4 A. Since October, last October.

5 Q. Since October of 2011?

6 A. Yes.

7 Q. What was your address prior to  
8 October of 2011?

9 A. That is number 3 Mevo Hashemesh  
10 Street, apartment 7, Givat Zeev.

11 THE INTERPRETER: The same city  
12 as before.

13 Q. How long did you live at that  
14 address?

15 A. 16 or 17 years.

16 Q. Prior to living at that  
17 address, where did you reside?

18 A. In Bet Shemesh.

19 Q. That is in Israel?

20 A. Yes.

21 Q. How long did you live in Bet  
22 Shemesh?

23 A. Six years.

24 Q. Prior to residing in Bet  
25 Shemesh, where did you live?

1 Varda Guetta

2 A. Ramot is an area in Jerusalem.

3 Q. Did you live anywhere before  
4 you lived in Ramot, Israel?

5 A. In Shmuel Hanavi.

6 THE INTERPRETER: Shmuel Hanavi,  
7 which is another neighborhood in  
8 Jerusalem.

9 Q. Have we now listed all of the  
10 places that you have lived?

11 A. When I was like, I was three, I  
12 lived in Baka, in a different area, and  
13 that is it. And before my mother told me,  
14 that is it.

15 Q. What's your date of birth?

16 A. May 10, '57.

17 Q. Of what country or countries  
18 are you a citizen?

19 A. Israel.

20 Q. Do you have any American  
21 citizenship?

22 A. No.

23 Q. Have you ever been an American  
24 national?

25 A. I used to have the Green Card.

1 Varda Guetta

2 Q. What years did you have a Green  
3 Card?

4 A. I don't know. Maybe '80, maybe  
5 until '90, '92.

6 Q. All right.

7 A. I was married to an American  
8 citizen. My two children are American  
9 citizens.

10 Q. Okay. How many times have you  
11 been married?

12 A. Once.

13 Q. What was the name of your  
14 husband?

15 A. David.

16 Q. What's his full name?

17 A. Full name? Guetta.

18 Q. He doesn't have a middle name  
19 either?

20 A. No.

21 Q. Do you know his Social Security  
22 number?

23 A. No. I am not married to him  
24 since 1984.

25 Q. Do you know where he lives

1 Varda Guetta

2 Please follow-up in writing.

3 I know the witness is not sure  
4 that this material even exists.

5 Q. Do you have any records of your  
6 son's academic performance after the  
7 attack?

8 A. Maybe.

9 MR. HILL: Again, if she has  
10 them, we obviously need them.

11 MR. SOLOMON: The same  
12 response, we will take it under  
13 advisement. Follow-up in writing.

14 Q. Is there any history of mental  
15 illness in your family?

16 A. No. No.

17 Q. I would like to now talk about  
18 the attack in 2001. What time of day did  
19 the attack occur?

20 A. Around 8, 8:30 at night.

21 Q. Was this in the month of  
22 January?

23 A. Yes.

24 Q. Was it dark?

25 A. Yes.

1 Varda Guetta  
2 inside of the car?  
3 A. I saw four of them, yes.  
4 Q. Did you recognize any of them?  
5 A. One -- I think, yes. I can see  
6 one.  
7 Q. Is this someone that you knew?  
8 A. No.  
9 Q. How did you recognize this  
10 person?  
11 A. Because I saw the face, and  
12 I -- I can see the face every time that I  
13 close my eyes.  
14 Q. Do you have a name to go with  
15 this face?  
16 A. No.  
17 Q. Has anyone ever --  
18 A. If I decide to give him a  
19 name --  
20 THE INTERPRETER: Mr. Hill, I  
21 think the witness missed the word  
22 recognized because --  
23 THE WITNESS: (Speaking in  
24 Hebrew)  
25 THE INTERPRETER: (Speaking in

1 Varda Guetta

2 Hebrew)

3 THE WITNESS: (Speaking in  
4 Hebrew)

5 THE INTERPRETER: If I know  
6 him? No, I don't know him.

7 THE WITNESS: (Speaking in  
8 Hebrew)

9 THE INTERPRETER: But if I see  
10 him in the future, I will know him.  
11 I will know who he was.

12 MR. SOLOMON: Stating that she  
13 will be able to recognize the  
14 individual again, I guess.

15 Q. How do you know you would  
16 recognize the individual ten years after  
17 the fact?

18 THE WITNESS: (Speaking in  
19 Hebrew)

20 THE INTERPRETER: I will be  
21 able to recognize him in 20 years, as  
22 well.

23 Q. Can you describe this  
24 individual?

25 THE INTERPRETER: (Speaking in



1 Varda Guetta

2 Hebrew)

3 THE WITNESS: (Speaking in  
4 Hebrew)

5 THE INTERPRETER: Yes. He had  
6 a mustache, he was dark skin, and he  
7 smiled. He shot and smiled.

8 Q. How long did you see this  
9 individual's face?

10 THE WITNESS: (Speaking in  
11 Hebrew)

12 THE INTERPRETER: I can't  
13 estimate it in time, but --

14 THE WITNESS: (Speaking in  
15 Hebrew)

16 THE INTERPRETER: When I saw  
17 it, after I saw it, I bent down and  
18 covered my son, and I tried to get  
19 away, and I couldn't.

20 Q. Would you say that you observed  
21 the individual's face for less than 10  
22 seconds?

23 THE WITNESS: (Speaking in  
24 Hebrew)

25 A. I can't estimate the time.

1 Varda Guetta

2 Hebrew)

3 THE INTERPRETER: What is their  
4 names? The Palestinian Authority.

5 Q. Why did you sue the Palestinian  
6 Authority in connection with this attack?

7 THE INTERPRETER: (Speaking in  
8 Hebrew)

9 THE WITNESS: (Speaking in  
10 Hebrew)

11 THE INTERPRETER: Because they  
12 support, they stand behind the  
13 terrorists.

14 Q. Are you aware of any evidence  
15 that the Palestinian Authority supported  
16 the people that attacked you?

17 THE INTERPRETER: (Speaking in  
18 Hebrew)

19 THE WITNESS: (Speaking in  
20 Hebrew)

21 THE INTERPRETER: If I am aware  
22 of it, I think that is how it is.  
23 They stand behind all of the -- the  
24 terrorists.

25 Q. Okay. I appreciate what you

1 Varda Guetta

2 have just said.

3 But what I am trying to get to  
4 is, are you aware of whether the  
5 Palestinian Authority did anything to aid  
6 the particular people that attacked you?

7 THE INTERPRETER: (Speaking in  
8 Hebrew)

9 THE WITNESS: (Speaking in  
10 Hebrew)

11 THE INTERPRETER: I don't know.  
12 That is I --

13 A. I don't know. I think that I  
14 heard from -- I don't know what to say.

15 Q. It is okay if you don't know.  
16 I am just trying to find out if  
17 you know of any evidence --

18 A. Nobody told me that, I know  
19 that they sued them, and I know that --

20 THE WITNESS: (Speaking in  
21 Hebrew)

22 THE INTERPRETER: I know they  
23 stood behind this. How I know? I  
24 don't know how I know. But I know.

25 Q. Okay. Can you tell me any

1 Varda Guetta  
2 evidence that they stood behind this attack  
3 on you?

4 THE INTERPRETER: (Speaking in  
5 Hebrew)

6 THE WITNESS: (Speaking in  
7 Hebrew)

8 THE INTERPRETER: I don't have  
9 evidence. The police in Israel  
10 perhaps can bring evidence. I don't  
11 have evidence to bring.

12 Q. Okay.

13 THE WITNESS: (Speaking in  
14 Hebrew)

15 THE INTERPRETER: I was  
16 attacked. I did not attack.

17 Q. I understand. I am just trying  
18 to find out if you --

19 A. Yes, I know.

20 Q. -- know anything about whether  
21 my clients had anything to do with your  
22 attack, and it sounds like you don't; is  
23 that fair?

24 THE INTERPRETER: (Speaking in  
25 Hebrew)

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13 THE PALESTINE LIBERATION ORGANIZATION,  
14 et al.,  
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16 DEFENDANTS.  
17 -----X

18 DATE: May 7, 2013

19 TIME: 11:10 A.M

20 CONTINUED VIDEOTAPED DEPOSITION  
21 of the Plaintiff VARDA GUETTA, taken by the  
22 Defendants, pursuant to Order and to the  
23 Federal Rules of Civil Procedure, held at  
24 the offices of Morrison & Foerster, 1290  
25 Avenue of the Americas, New York, New York  
10104, before Robert X. Shaw, CSR, a Notary  
Public of the State of New York.

1 VARDA GUETTA

2 A. Yes.

3 Q. And, at the time, you were  
4 taking your son -- and his name is Oz; is  
5 that correct?

6 A. I understand what he's saying.

7 MR. TOLCHIN: Look. If we --

8 Can we just go off the record,  
9 counselor. I just want to instruct  
10 my client.

11 (Speaking in Hebrew).

12 Q. So, your son's name is Oz; is  
13 that correct?

14 A. Yes.

15 Q. And he was 12 years old at the  
16 time?

17 A. 12-1/2.

18 Q. And how old were you, at the  
19 time, if you don't mind me asking?

20 A. Let's see, 11 years ago. I was  
21 44.

22 Q. Okay. Do you remember what  
23 kind of car you were driving?

24 A. Hyundai Lancer.

25 Q. Okay. And did it have a

1 VARDA GUETTA

2 THE INTERPRETER: I understood  
3 him (Speaking in Hebrew).

4 A. I was going there, yes.

5 MR. TOLCHIN: The issue is that  
6 you butchered the name, and to the  
7 extent the interpreter didn't  
8 understand it. Givon Hadesha.

9 THE INTERPRETER: When you said  
10 it, I understood it.

11 MR. O'TOOLE: His Hebrew is  
12 clearly better than mine.

13 Q. So, you're dropping off a  
14 friend of your son's; is that right?

15 A. Yes.

16 Q. And you're leaving Givon  
17 Hadesha; correct?

18 A. Yes.

19 Q. And your son is sitting next to  
20 you in the passenger seat?

21 A. Yes.

22 Q. And he's facing forward; is  
23 that right?

24 A. Yes.

25 Q. And you go out of Givon

1 VARDA GUETTA

2 Hadesha, past the security booth; correct?

3 A. Yes.

4 Q. And you go down a hill and you  
5 come to an intersection?

6 A. Correct.

7 Q. And it's nightttime; is that  
8 correct?

9 A. Yes.

10 Q. And you come to the  
11 intersection?

12 A. Yes.

13 Q. And a car comes in from the  
14 left; is that correct?

15 A. Yes.

16 Q. And it blocks you in front; is  
17 that correct?

18 A. Yes.

19 Q. And, at that point, you see  
20 what you described as fireworks and flashes  
21 coming out of the car?

22 A. Yes.

23 Q. And, at some point, you --  
24 you've testified before that you didn't  
25 realize at first that those were shots; is



1 VARDA GUETTA

2 that correct?

3 A. Of course not, because it's not  
4 every day that I get shot at. It's not  
5 something that I'm accustomed to.

6 Q. And then your son Oz says we're  
7 being shot at; is that correct?

8 A. Correct.

9 Q. Okay. Now, the shooters, as I  
10 understand it, I guess the last time you  
11 testified, you said they stayed in the car;  
12 is that right?

13 A. Correct.

14 Q. So, at some point, you said  
15 that four people got out of the car and  
16 started to shoot?

17 A. (Speaking English) No.

18 Q. That's incorrect?

19 A. I never said such a thing,  
20 because they never got out of the car.

21 MR. O'TOOLE: Okay. Can we put  
22 the video up.

23 A. I never said that anyone got  
24 out of the car.

25 (Video being played.)

1 VARDA GUETTA

2 probably a little further.

3 MR. HILL: Why don't you pose  
4 it to her in meters.

5 Q. Do you have any idea how many  
6 meters that is?

7 A. But tomorrow I'm going to  
8 Israel, I can measure it exactly and let  
9 you know.

10 Q. A meter is about here?

11 A. Here, okay.

12 Q. Okay, that's your car.

13 A. My car was about that far away,  
14 and then there was a little more, the  
15 distance of the road, and then beyond that.  
16 It's a little narrow road. It's not the  
17 kind of roads that they have in New York.

18 Q. Now, you said -- were you  
19 looking at the guns?

20 A. I was looking at them and I  
21 didn't understand what was going on.

22 Q. And how many guns did you see?

23 A. Four.

24 Q. Now, did you say that to the  
25 police right afterwards?

1 VARDA GUETTA

2 When we were focused on the  
3 flashes of light; correct?

4 A. Yes.

5 Q. And then Oz says, those were  
6 guns; correct?

7 A. Yes.

8 Q. And that made you nervous;  
9 right?

10 A. It made me nervous. It made me  
11 very confused.

12 Q. You immediately wanted to save  
13 your son?

14 A. Correct.

15 Q. And you did not wait?

16 A. I looked to see what was going  
17 on, and I looked and I bent down. I bent  
18 down, and while I was doing that, Oz was  
19 higher up and then I moved him down and got  
20 on top of him.

21 Q. So, let's walk through that.  
22 You turned to Oz; right?

23 A. Oz was here.

24 Q. On your right side; correct?

25 A. Yes.

1 VARDA GUETTA

2 Q. And you turned towards your  
3 right?

4 A. With my body, with my hands  
5 like this.

6 Q. And you pushed him down?

7 A. Yes.

8 Q. And you put yourself on top of  
9 him; right?

10 A. Yes.

11 Q. So, you're leaning over to your  
12 right with your head down; is that right?

13 A. No. Because I was looking to  
14 see what was going on, whether they had  
15 left or hadn't left. Here, again, I said  
16 whether they went or did not went, but what  
17 I meant was, um, drove away. So, I have to  
18 correct myself.

19 Q. Let's wait to get to that.

20 So, you're ducked down, what  
21 you are saying now is that you were lifting  
22 your head above the dashboard?

23 A. I don't have to lift my head,  
24 because Oz is tall.

25 MR. TOLCHIN: Wait for the

1 VARDA GUETTA

2 Q. So, you're scared?

3 A. I don't know how to explain it,  
4 whether I was afraid, or whether I was  
5 confused. I didn't understand what was  
6 going on.

7 Q. And your heart is beating  
8 really fast?

9 A. I was confused. I said before,  
10 and I'll say it again today, when the time  
11 comes, I'll go treat the roots of the  
12 matter, and I'll understand whether my  
13 heart was pounding or whether it wasn't  
14 pounding. It was -- the entire thing was a  
15 matter of seconds.

16 Q. And when you say get to "the  
17 root of the matter," are you referring to,  
18 you testified before about going through  
19 hypnosis.

20 A. I went through a crisis.  
21 I'm still going through a  
22 crisis. Emotionally speaking, I'm simply  
23 -- I have yet to contend with a great deal  
24 of damage that was caused to me. I don't  
25 have the privilege of dealing with that.

1 VARDA GUETTA

2 Q. It's hard to remember; isn't  
3 it?

4 A. Some of the things are very  
5 difficult to remember, yes.

6 Q. You spoke about it with the  
7 police? When I say "it," I'm talking about  
8 the shooting.

9 A. I think -- I think so. I had  
10 to give a report to the police. They took  
11 a report from me.

12 Q. And when do you -- first of  
13 all, which police are we talking about?

14 A. The report I gave to the police  
15 at Givat Zeev. I don't recall whether I,  
16 whether I went there, or they came to me.  
17 And at the hospital I think that the night  
18 that it happened, the *shabak*, the general  
19 security services came.

20 Q. Did they take a statement from  
21 you?

22 A. With a signature and all that?  
23 I spoke to them. They didn't -- I don't  
24 recall that they took a statement.

25 Q. When you spoke to them, was

1 VARDA GUETTA

2 somebody writing down what you said?

3 A. No. I don't think so. They  
4 took me to a side room, and Oz was in the  
5 emergency room, and I didn't have a lot of  
6 patience to sit and talk with them.

7 Q. Now, you said they made a  
8 report. Have you seen a report about the  
9 shooting?

10 A. I don't know whether they did a  
11 report. I don't know. He spoke to me. I  
12 don't know whether he did a report.

13 Q. Have you ever seen a report?

14 A. No. Not a *shabak* report, not a  
15 general security services report.

16 Q. Now, you said you were  
17 impatient; is that right?

18 A. When they came to speak with  
19 me, yes.

20 Q. Yes. But you wanted to help;  
21 right?

22 A. At that moment, I only wanted  
23 to help my son. Nothing else was of  
24 interest to me.

25 Q. You didn't not provide a

1 VARDA GUETTA

2 description of the shooter; did you?

3 A. At that moment, nothing at all  
4 was of interest to me, even if the world  
5 were to implode. The only thing that was  
6 of interest to me was my son.

7 Q. You never told them that the  
8 shooter had a moustache, for example?

9 A. We did not get into details  
10 like that at that moment. I stood and I  
11 spoke to them, and I had to go to my son.  
12 I did not go into detail with them.

13 Q. And you never told police about  
14 a *kaffieh*?

15 A. They didn't ask me.

16 Q. All right. How many times  
17 after the shooting did you speak with the  
18 police?

19 A. I don't think that I spoke with  
20 the police after that. They didn't speak  
21 with me again.

22 Q. Well, they told you about their  
23 investigation; is that right?

24 A. It wasn't the police who told  
25 me, it was a friend of my daughter who



1 VARDA GUETTA

2 Attacks in Israel, attacks in Israel are  
3 talked about and made public everywhere,  
4 and in our community, these are people who  
5 we knew.

6 Q. Now, the police never showed  
7 you pictures; did they?

8 A. No.

9 Q. Never had you try and identify  
10 anyone?

11 A. The police, no.

12 Q. And they never did that,  
13 because you never told them you could  
14 identify the shooter?

15 MR. TOLCHIN: Objection. Calls  
16 for speculation as to why the police  
17 did whatever they did. That's a  
18 silly question.

19 Q. You can answer.

20 A. They did not ask me.

21 Q. Okay.

22 A. (Speaking in Hebrew).

23 MR. TOLCHIN: There's no  
24 question.

25 MR. HILL: There was a

1 VARDA GUETTA

2 Q. You were asked, was there  
3 anything about the faces that you could  
4 tell who they were, and you shook your head  
5 No; is that correct?

6 A. In this instance, yes. I want  
7 to explain something to you.

8 THE INTERPRETER: (Speaking in  
9 Hebrew).

10 A. I've never been through  
11 situations like this. The first deposition  
12 that took place, I was under enormous  
13 pressure, and you can see how I'm moving.  
14 I'm not a professional. I don't know what  
15 to say and how to behave. I don't know.

16 Q. But you were asked if there was  
17 anything about the faces, and you shook  
18 your head No, and then you didn't just  
19 shake your head No.

20 MR. TOLCHIN: Well, let's  
21 finish the sentence.

22 MR. O'TOOLE: She shook it, No.

23 MR. TOLCHIN: She was asked was  
24 there anything about the faces that  
25 would permit her to identify them.

1 VARDA GUETTA

2 MR. HILL: If you have an  
3 objection, you should state the  
4 objection. You should not --

5 MR. TOLCHIN: Okay. Let's move  
6 on. Go ahead. Ask your question  
7 again.

8 MR. O'TOOLE: We are going to  
9 show the clip again.

10 THE INTERPRETER: No, it's not  
11 necessary.

12 Q. You were asked was there  
13 anything about the faces that you could  
14 tell who they were; correct?

15 A. Correct. But was I supposed to  
16 say whether he had a moustache, or didn't  
17 have moustache? 99 percent of Arabs have  
18 moustaches.

19 Q. You never provided any  
20 description.

21 A. Because they didn't really go  
22 into detail with me with regard to a  
23 description. They didn't really ask me  
24 about that.

25 Q. Well, you didn't say anything

1 VARDA GUETTA

2 about a moustache; right?

3 A. They didn't ask me either.

4 Q. You didn't say he was smiling?

5 A. They didn't ask me.

6 Q. You didn't say he was laughing?

7 A. I didn't say that he was  
8 laughing. I said that he was smiling.

9 Q. You didn't say I'll never  
10 forget that face?

11 A. I didn't say it. I don't know  
12 whether I didn't say it, but I still say  
13 that, until my dying day, I won't forget  
14 him. Whether I said it before, or didn't  
15 say it, um, before, that's the way it is,  
16 and that's something that's engraved in me  
17 for eternity.

18 Q. You didn't say it before  
19 because you were focused on your son and  
20 you weren't looking at the shooters.

21 MR. TOLCHIN: Objection to the  
22 form.

23 A. I was focused on my son, but at  
24 the same time I wanted to understand what  
25 was going on, and I looked. I was focused,

1 VARDA GUETTA

2 A. Yes.

3 Q. They were pretty blinding;  
4 right?

5 A. Not really.

6 Q. You couldn't even tell they  
7 were guns?

8 A. It's not that I didn't see it.  
9 My brain didn't comprehend it. My brain  
10 didn't comprehend it. See it? I saw it.  
11 It didn't, it wasn't processed in my head.

12 Q. Now, at your deposition in the  
13 Arab Bank case, when you were asked if you  
14 saw the faces, you said you were focused on  
15 the guns?

16 A. Yes. But the guns had people  
17 attached to them. The Arabs weren't apart  
18 from them. It's not like I saw it, it's  
19 like I saw the guns alone. There were  
20 people who were holding them.

21 Q. Now, the car is at its side;  
22 right?

23 MR. TOLCHIN: Which car?

24 Q. The car from which the flashes  
25 were coming.

1 VARDA GUETTA

2 not focused on that.

3 Q. Have you ever been had any  
4 discussions, that you know of, about  
5 Muhanad Abu Halawa?

6 A. Even if I did, I don't remember  
7 them.

8 Q. When was the first time that  
9 you looked at a photograph in this case, to  
10 try and identify the shooters?

11 A. When I came here about two  
12 months ago, 2-1/2 months ago.

13 Q. That was the first time that  
14 you ever looked at a photograph and were  
15 asked by anyone, can you recognize this  
16 face as one of the shooters?

17 THE INTERPRETER: (Speaking in  
18 Hebrew).

19 A. That was the first time, yes.

20 MR. TOLCHIN: You didn't  
21 translate the whole thing.

22 Try your answer again.

23 A. (Speaking in Hebrew).

24 THE INTERPRETER: What was the  
25 question again? No, you translate

1 VARDA GUETTA

2 question?

3 DI MR. TOLCHIN: The question is  
4 what did your lawyer say to you?  
5 Yes, I'm instructing you not to  
6 answer.

7 MR. YALOWITZ: Why don't you  
8 ask a more specific question. Maybe  
9 we can work through it.

10 Q. All right. So, your lawyers  
11 contacted you about viewing photos;  
12 correct?

13 A. Yes.

14 Q. What did they say they wanted  
15 you to do with respect to the photos?

16 A. To look at them and to see  
17 whether I, whether I can identify them.

18 Q. Did they say who was in the  
19 photos?

20 A. No.

21 Q. Did they say anything else  
22 about the photos?

23 A. No.

24 Q. When, how did this contact take  
25 place?

1 VARDA GUETTA

2 A. He brought me an envelope with  
3 pictures and he left it, and he, um, left.

4 Q. Who is "he"?

5 A. (Indicating).

6 Q. And you're pointing at Mr.  
7 Tolchin?

8 A. Yes.

9 Q. And where were you when he  
10 brought you the envelope with photos?

11 A. At my daughter's house.

12 Q. You were at your daughter's  
13 houses. Who else was there?

14 A. My grandson.

15 Q. How old is your grandson?

16 A. He was a year old on Sunday.

17 Q. Congratulations. And how about  
18 your daughter, she was there?

19 A. She was at work. Bob was with  
20 his daughter. And I was with my grandson,  
21 and it was very brief.

22 Q. And how did you learn Bob was  
23 going to bring you photos?

24 A. He called to coordinate it with  
25 me.



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2 was? What were you trying to do with the  
3 photos?

4 A. To see whether I identify them.

5 Q. And where does your daughter  
6 live?

7 A. Now in Florida, but she was in  
8 Brooklyn.

9 Q. So, he came to your house, or  
10 your daughter's house in Brooklyn --

11 A. Yes.

12 Q. -- and handed you an envelope?

13 A. Yes.

14 Q. Now, what did you assume about  
15 what was in the photos, if anything?

16 A. That there are pictures there  
17 of perhaps terrorists -- not perhaps, of  
18 terrorists. And I wasn't thinking that he  
19 brought me pictures of a potential date.

20 Q. He wasn't going to waste your  
21 time; right?

22 A. In terms of what?

23 Q. Well, you assumed the right  
24 picture was in that group; right?

25 A. I assumed that, and I hoped

1 VARDA GUETTA

2 that.

3 Q. And he didn't say, if the guy's  
4 not in here, don't pick him; right?

5 MR. TOLCHIN: Objection. Lacks  
6 foundation.

7 Q. Well, did he say anything to  
8 you?

9 A. He said, look at the pictures,  
10 go over them, and then we'll talk.

11 Q. But he didn't say anything  
12 about the people who were in the photos?

13 A. Not at all.

14 Q. Just to be clear, he didn't  
15 warn you that the shooter might not be in  
16 there?

17 A. He didn't tell me that he would  
18 not be, and he didn't tell me that he would  
19 be.

20 Q. And he didn't tell you how to  
21 look at them?

22 A. No.

23 Q. So, he didn't say, look at them  
24 side by side?

25 A. No.

1 VARDA GUETTA

2 BY MR. O'TOOLE:

3 Q. To follow up on that, when we  
4 last broke we were talking, I was asking  
5 you a series of questions about the  
6 envelope that you looked at in February; is  
7 that correct?

8 A. I'm sorry. Which year?

9 Q. February, 2013.

10 A. Yes.

11 Q. You said that you were in  
12 Brooklyn. Do you remember the date for  
13 your trip to the United States?

14 A. I arrived here on the 24th of  
15 January.

16 Q. When did you leave?

17 A. From where?

18 Q. The United States.

19 A. (Speaking in English) I'm still  
20 here.

21 Q. Do you remember when Mr.  
22 Tolchin brought you the envelope?

23 A. Yes.

24 Q. You were talking about the  
25 envelope at the break; is that right?

1 VARD A GUETTA

2 A. Yes.

3 Q. About what time did Mr. Tolchin  
4 come over?

5 A. Around 5, 5:30, in the  
6 afternoon.

7 Q. And he's with his daughter?

8 A. Yes.

9 Q. And you put the photos to the  
10 side because you were with your grandson?

11 A. No. We looked at them quickly.

12 Q. Who is "we"? You and Mr.  
13 Tolchin looked at the photos?

14 A. Yes. Quickly. And then my  
15 grandson was crying, and he had to eat, and  
16 I had said that I would look at them later  
17 on.

18 Q. When you and Mr. Tolchin looked  
19 at the photos, that's different than from  
20 what you said before the break; right?

21 A. I was holding my grandson and I  
22 looked through the pictures really quickly.  
23 He was crying, and I had to -- I said that  
24 I would look at them later on.

25 Q. Did you -- you looked through

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2 them quickly, one by one, or did you look  
3 at them all side by side?

4 A. One by one. Had I laid them  
5 out one next to the other, my grandson  
6 would have wrecked them all.

7 Q. So, you looked one by one, and  
8 you didn't make an identification of anyone  
9 of these?

10 A. No.

11 Q. Now, you said before that Mr.  
12 Tolchin didn't say anything to you about  
13 the photos. Is that still your testimony?

14 A. Yes.

15 Q. Nothing. He said no words at  
16 all to you about any of the photos?

17 A. He told me that he was bringing  
18 me pictures, that I should try and see  
19 whether I could identify them.

20 Q. And that was for the purpose of  
21 the lawsuit; is that correct?

22 A. I assume that it was.

23 Q. And then, after you didn't  
24 identify anyone, he left, did he say keep  
25 the photos and look through them later, or

1 VARDA GUETTA

2 ago that he said if you have an answer, be  
3 in touch, you were wrong; is that correct?

4 MR. YALOWITZ: Objection to the  
5 form.

6 MR. TOLCHIN: Objection as to  
7 form.

8 A. I'm always in touch with him,  
9 with an answer, without an answer.

10 Q. Okay. So, after he left, is  
11 that when you put the photos to the side?

12 A. (Speaking in English) Yes.  
13 Yes.

14 Q. And you didn't rule anybody out  
15 at that point, you put them all back into  
16 the envelope?

17 MR. TOLCHIN: Objection to  
18 form.

19 A. Correct. And I took them into  
20 the other room, until I had time in the  
21 evening, at night, until I had time at  
22 night. And then I looked at them.

23 Q. Now, where were you when you  
24 started to look at them?

25 MR. YALOWITZ: Object to the

1 VARDA GUETTA

2 this, but do you drink alcohol?

3 A. Extremely occasionally.

4 Q. Had you had any alcohol that  
5 evening?

6 A. There was no reason to do so.  
7 I have a drink at a wedding, or  
8 when there's a reason for a party.

9 Q. So, it was about 9 o'clock at  
10 night, you are sitting on the bed; is that  
11 correct?

12 A. Yes.

13 Q. You pulled the photos out  
14 again; is that correct?

15 A. Yes.

16 Q. One by one? Did you lay them  
17 aside on the bed?

18 A. First, I took all of them out  
19 of the envelope. And I started to look at  
20 them one by one by one. And there were  
21 people who I ruled out from the outset.

22 Q. Why did you rule them out?

23 A. Because it wasn't them.

24 Q. Now, did all of them have  
25 moustaches?

1 VARDA GUETTA

2 and kept looking at them; is that correct?

3 A. I don't recall whether I laid  
4 them out on the bed, but I looked at them  
5 and looked at them.

6 Q. And I guess, just what I'm  
7 asking is, were you looking at them one by  
8 one again, or were you laying them side by  
9 side?

10 MR. YALOWITZ: Let her answer.

11 A. I think that I looked at them  
12 one by one by one.

13 Q. And this is again.

14 So, first -- I just want to be  
15 sure that we're clear. So, you look at  
16 them one by one by one, and eliminate some  
17 of them; is that correct?

18 A. Yes.

19 Q. Then do you ever lay them side  
20 by side?

21 A. I don't recall. I don't  
22 recall, no. Perhaps I spread them out on  
23 the floor. I really don't remember what I  
24 did with them.

25 Q. But then, you said you looked



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2 again at them one by one by one. About how  
3 long did you do that?

4 A. It took me a long time.

5 Q. Do you remember about how long  
6 the whole process took?

7 A. No.

8 Q. So, once you find the photo, do  
9 you remember which letter photo it was?

10 A. I.

11 Q. It was I. Okay.

12 Once you find the photo that  
13 was the letter I, what do you do next?

14 A. I put it aside. And I got up  
15 in the morning and I looked at it again.  
16 And I looked at it again, and again, and  
17 again, and again. I wanted to be certain.  
18 And then I called Bob and I told him.

19 Q. Now, how long did you sleep  
20 that night; do you know?

21 A. Perhaps from 11 or midnight  
22 until 7.

23 Q. Okay. Where did you put the  
24 photo while you were sleeping?

25 A. I have a kind of chair there,

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2 and I put it on that chair.

3 Q. And it was just that photo;  
4 right?

5 A. That picture was first on top.

6 Q. And you just left it there on  
7 top of the chair; right?

8 A. Yes.

9 Q. And how many times did you look  
10 at it?

11 A. When I was sleeping, I didn't  
12 look at it. Before I went to sleep, I  
13 looked at it, many times. And the next day  
14 I looked at it, um, again, as well.

15 I looked at it, and looked at  
16 it, and looked at it.

17 Q. So, before you went to sleep,  
18 you looked at it many times; right?

19 A. I looked at all of the  
20 pictures, as well as at that picture.

21 Q. But that one was on top, and it  
22 was there before you went to sleep, and you  
23 looked at it many times?

24 A. I put them like that into the  
25 envelope, and I don't remember whether it

1 VARDA GUETTA

2 Q. So, on February 19th you have a  
3 conversation with Mr. Tolchin, and that's  
4 the first conversation that you've had  
5 about this, these photographs; is that  
6 correct?

7 MR. YALOWITZ: Can you rephrase  
8 it?

9 MR. O'TOOLE: Sure.

10 MR. YALOWITZ: He's going to  
11 rephrase it.

12 THE INTERPRETER: Okay.

13 Q. On February 19th, you reach Mr.  
14 Tolchin for the first time about the  
15 photographs that you have now seen; is that  
16 correct?

17 A. Okay. Yes.

18 Q. You haven't spoken to anyone  
19 else about the photographs at this point?

20 A. Nobody.

21 Q. What do you say to Mr. Tolchin?

22 A. That I saw it in the pictures,  
23 and I identified it. And that I had  
24 identified something. That I -- that I had  
25 identified someone.

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2 Q. Did you say anything else?

3 A. No. I gave him the details of  
4 the picture and the letter, and that was  
5 it.

6 Q. And what did he say?

7 A. Thank you very much. And that  
8 he would continue to handle it.

9 Q. Did he discuss any names of  
10 people?

11 A. No.

12 Q. Do you have any idea of the  
13 name of the person that we're talking  
14 about?

15 A. No.

16 Q. Had you seen any of the photos  
17 that you viewed before, the viewing on  
18 February 17th?

19 A. No.

20 Q. Did Mr. Tolchin tell you that  
21 you had gotten the identification right, or  
22 that you had gotten it wrong?

23 A. He didn't tell me anything.

24 Q. Did he congratulate you?

25 A. I told him what I thought, and